

SERVICE DATE – LATE RELEASE APRIL 24, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34839

NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY
COMPANY—CONTROL AND CONSOLIDATION EXEMPTION—ALGERS, WINSLOW
AND WESTERN RAILWAY COMPANY

Decided: April 24, 2006

On February 14, 2006, Norfolk Southern Railway Company (NSR) filed a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 11323, et seq., to acquire control of Algiers, Winslow and Western Railway Company (AWW) and to consolidate AWW into NSR following the acquisition. Indiana Southern Railroad, Inc. (ISRR), Indianapolis Power and Light Co. (IPL), PSI Energy, Inc. (PSI) and Solar Sources Underground, LLP (Solar), filed replies opposing NSR's petition and requesting the imposition of conditions. On April 3, 2006, the Board issued a decision granting NSR leave to amend its petition for exemption to add Norfolk Southern Corporation (NSC), NSR's parent corporation, to the petition and to file a reply on or before April 11, 2006, to the filings made by ISRR, IPL, PSI and Solar. On April 11, 2006, NSR and NSC (collectively, NS) filed their reply.

On April 12, 2006, IPL filed a letter requesting that the Board, on its own motion, set a procedural schedule permitting the parties of record at least 20 days to respond to NS's filing.¹ According to IPL, NS's reply contains additional legal arguments and evidence that were not included in its petition for exemption. IPL states that NS's filing contains numerous assertions and conclusory statements regarding IPL's potential coal sources, transportation operations, and business decisions concerning IPL's purchase and transportation of its coal supply. IPL argues that the record would be incomplete if the parties were not permitted to respond to NS's filing. By letter filed on April 17, 2006, NS opposes prolonging this proceeding by allowing further replies.

Under the circumstances, IPL's request is reasonable and will be granted. Accordingly, replies to NS's filing will be due on or before May 1, 2006.²

¹ On April 14, 2006, PSI filed a letter in support of IPL's request to permit the parties to respond in writing to NS's reply.

² On April 21, 2006, ISRR filed a letter requesting that the Board establish a procedural schedule in this proceeding providing for discovery and comments. The Board will take appropriate action to address this request after replies have been filed.

It is ordered:

1. IPL's request is granted. Replies to NS's April 11, 2006 filing are due on or before May 1, 2006.

2. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary